IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

WSOU INVESTMENTS, LLC d/b/a BRAZOS LICENSING AND DEVELOPMENT,	§ § § §	CIVIL ACTION NO. 6:20-cv-455
Plaintiff,	§ §	**JURY TRIAL DEMANDED**
v.	§ § §	
MICROSOFT CORPORATION,	§ §	
Defendant.	§ §	

ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development ("Brazos" or "Plaintiff"), by and through its attorneys, files this Complaint for Patent Infringement against Microsoft Corporation ("Microsoft" or "Defendant") and alleges:

NATURE OF THE ACTION

1.   This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2.   Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

3.   On information and belief, Defendant Microsoft Corporation is incorporated under the laws of Washington State with its principal place of business at 1 Microsoft Way, Redmond, Washington 98052. Microsoft may be served with process through its registered agent Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

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4.	On information and belief, Microsoft has been registered to do business in the state of Texas under Texas SOS file number 0010404606 since about March 1987.

5.	On information and belief, Microsoft has had regular and established places of business in this judicial district since at least as early as 2002.

JURISDICTION AND VENUE

6.	This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 284, and 285.

7.	This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8.	This Court has specific and general personal jurisdiction over Microsoft pursuant to due process and/or the Texas Long Arm Statute, because Microsoft has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Microsoft would not offend traditional notions of fair play and substantial justice because Microsoft has established minimum contacts with the forum. For example, on information and belief, Microsoft has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

9.	Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b).

10.	This district was deemed to be a proper venue for patent cases against Microsoft in actions bearing docket numbers: 6-19-cv-00572 (*Zeroclick, LLC v. Microsoft Corporation*); 6-19-cv-00687 (*Exafer, Ltd. v. Microsoft Corporation.*); 6-19-cv-00399 (*Neodron Ltd. v. Microsoft Corporation*).

11.   On information and belief, Microsoft maintains a variety of regular and established business locations in the judicial district including its Corporate Sales Office Locations, Retail Store Locations, and Datacenter Locations.

12.   On information and belief, Microsoft operates multiple corporate sales offices in the judicial district, and these offices constitute regular and established places of business.

13.   On information and belief, Microsoft employs hundreds of employees within its corporate sales offices located in the judicial district.

14.   On information and belief, Microsoft has an established place of business in this judicial district known as "Corporate Sales Office: Austin" located at 10900 Stonelake Boulevard, Suite 225, Austin, Texas 78759 and "Microsoft Retail Store: The Domain" located at 3309 Esperanza Crossing, Suite 104 Austin, Texas 78758.

https://www.microsoft.com/en-us/about/officelocator?Location=78759

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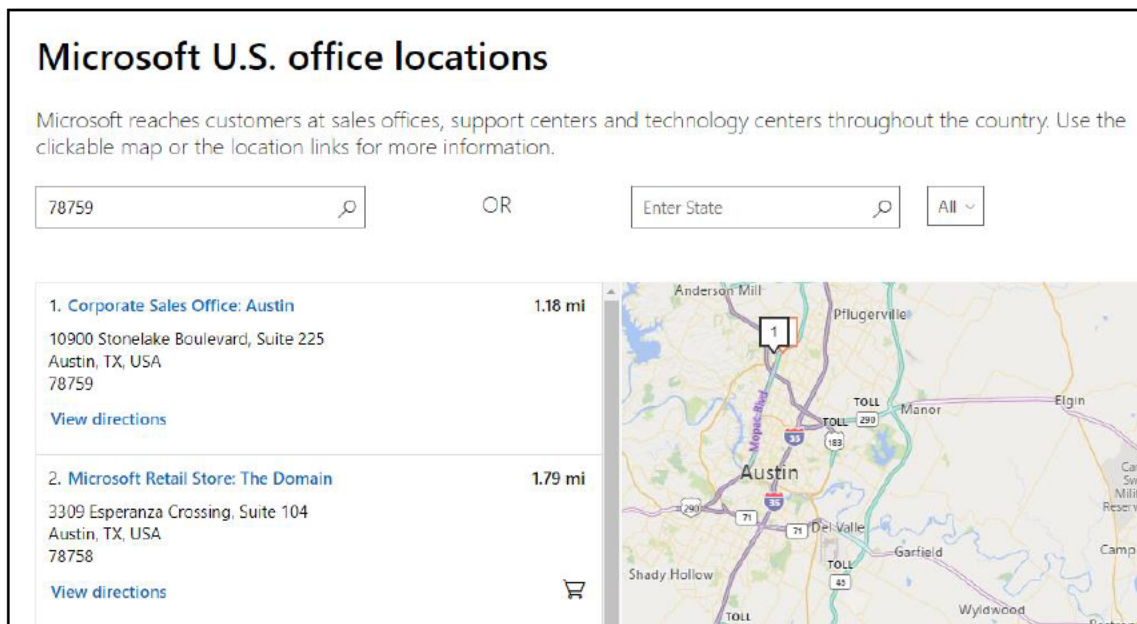
15.   On information and belief, Microsoft's "Corporate Sales Office: Austin" and "Microsoft Retail Store: The Domain" locations were respectively assessed by the Travis County Appraisal District in 2019 to have a market values of over $2.3 million dollars and $2.7 million dollars.

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value	
434688		Personal	10900 STONELAKE BLVD B-225 AUSTIN, TX 78759	MICROSOFT CORPORATION	MICROSOFT CORPORATION	$2,300,856	View Details
818154		Personal	3309 ESPERANZA CROSSING 104 AUSTIN, TX 78758	MICROSOFT CORPORATION	MICROSOFT CORPORATION STORE #11	$2,702,083	View Details
846351		Personal	12812 SHOPS PARKWAY 300 TX 78738	MICROSOFT CORPORATION	MICROSOFT CORPORATION	$205	View Details
846393		Personal	907 W 5 ST 101 TX 78703	MICROSOFT CORPORATION	MICROSOFT CORPORATION	$623	View Details
846400		Personal	9600 S INTERSTATE HY 35 TX 78748	MICROSOFT CORPORATION	MICROSOFT CORPORATION	$276	View Details
846401		Personal	1201 BARBARA JORDAN BLVD 3-700 TX 78723	MICROSOFT CORPORATION	MICROSOFT CORPORATION	$26,744	View Details

http://propaccess.traviscad.org/clientdb/SearchResults.aspx

16.   On information and belief, Microsoft has another established place of business in this judicial district known as "Corporate Sales Office: San Antonio" located at Concord Park II, 401 East Sonterra Boulevard, Suite 300, San Antonio, Texas 78258.

Source: Google Maps

17.   On information and belief, Microsoft owns and operates multiple datacenters in the judicial district, including without limitation data centers located at 5150 Rogers Road, San Antonio, Texas 78251; 5200 Rogers Road, San Antonio, Texas 78251; 3823 Weisman Boulevard, San Antonio, Texas 78251; and 15000 Lambda Drive, San Antonio, Texas 782245.

18.   On information and belief, Microsoft utilizes its datacenter locations in this judicial district as regular and established places of business. As a non-limiting example, the data centers in San Antonio are referred to within Microsoft as "US Gov Texas."

19.   On information and belief, thousands of customers who rely on the infringing datacenter infrastructure that Microsoft's engineering and operations teams have built, reside in this judicial district.

COUNT ONE - INFRINGEMENT OF U.S. PATENT NO. 9,814,988

20.   Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

21.   On November 14, 2017, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 9,814,988 ("the '988 Patent"), entitled "Games Console Adaptor Unit." A true and correct copy of the '988 Patent is attached as Exhibit A to this Complaint.

22.   Brazos is the owner of all rights, title, and interest in and to the '988 Patent, including the right to assert all causes of action arising under the '988 Patent and the right to any remedies for the infringement of the '988 Patent.

23.   Microsoft makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, certain
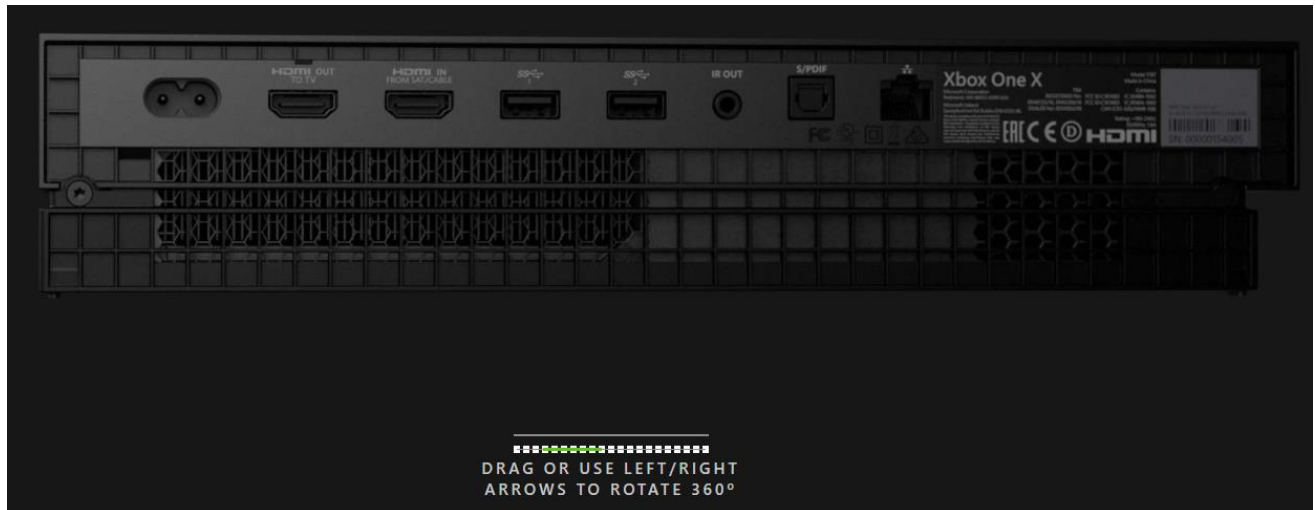
Xbox consoles, including the Xbox One X and Xbox One S series consoles (collectively, the "Accused Products").

https://www.xbox.com/en-US/consoles/all-consoles
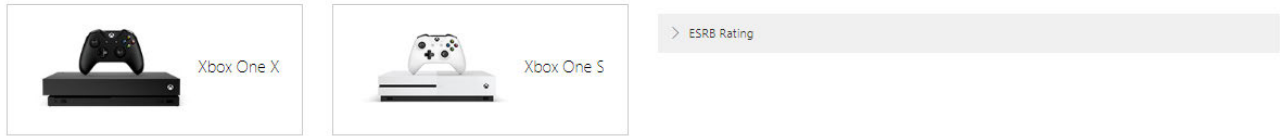
24.   The Accused Products include a console housing, which includes USB 3.0 ports allowing a connection to an external hard drive.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

∨   Set up external storage

To use external storage with Xbox One games and apps, your hard drive must:

- Hold 128 GB or more

    | **Note** This has been reduced from 256 GB.

- Connect via USB 3.0

When you first connect, Xbox will prompt you to format your device. You can use it for Xbox games and apps, or for personal media such as pictures, music, and video. (Xbox will treat devices that don't meet the above requirements as media storage.)

If your Xbox doesn't recognize your external drive, see Troubleshoot external storage detection on Xbox One.

    | **Note** Xbox will recognize only two external drives at one time.

If you cancel formatting when you connect a storage device, you can set it up later:

1. Press the **Xbox** button ⬣ to open the guide and select **System > Settings > System > Storage.**
2. Select your device, and then select **Format for games & apps.**

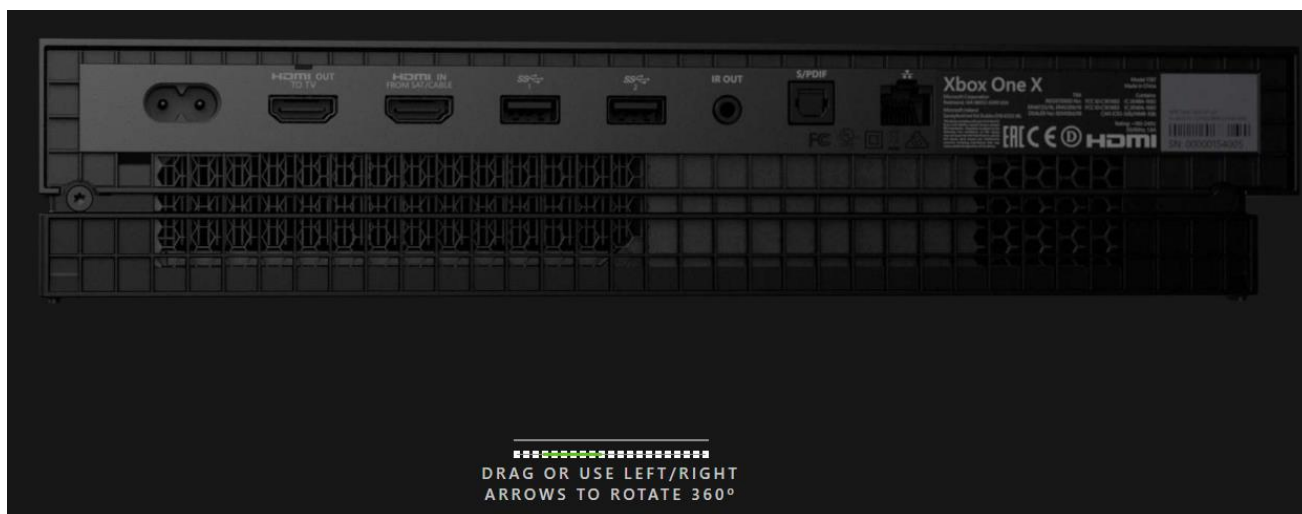https://beta.support.xbox.com/help/hardware-network/storage/manage-storage

25.   The Accused Products allow a disc to be inserted to install a game product. The disc is inserted into an optical drive in the gaming console.
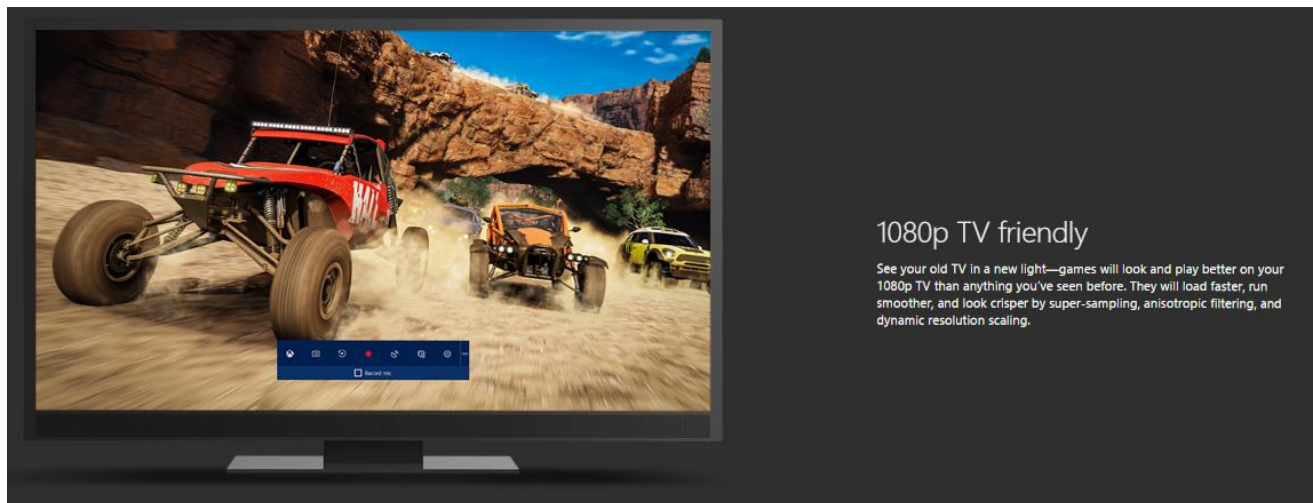
https://www.youtube.com/watch?v=KD2nhicxroQ

26.   The Accused Products have an interface (HDMI Out port) for connecting a display, such as a television ("TV"), to the gaming console.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

1080p TV friendly

See your old TV in a new light—games will look and play better on your 1080p TV than anything you've seen before. They will load faster, run smoother, and look crisper by super-sampling, anisotropic filtering, and dynamic resolution scaling.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

27.   The Accused Products receive user input via hand-held controllers and can be connected to controllers wirelessly and/or via cables connecting controllers to the USB ports in the console.

Connect an Xbox Wireless Controller to your console

You have two options for connecting your Xbox Wireless Controller to your console: using the console's bind button for a wireless connection and using a USB to micro-USB cable for a wired connection.

Topics   Collapse all

> Connect the controller wirelessly

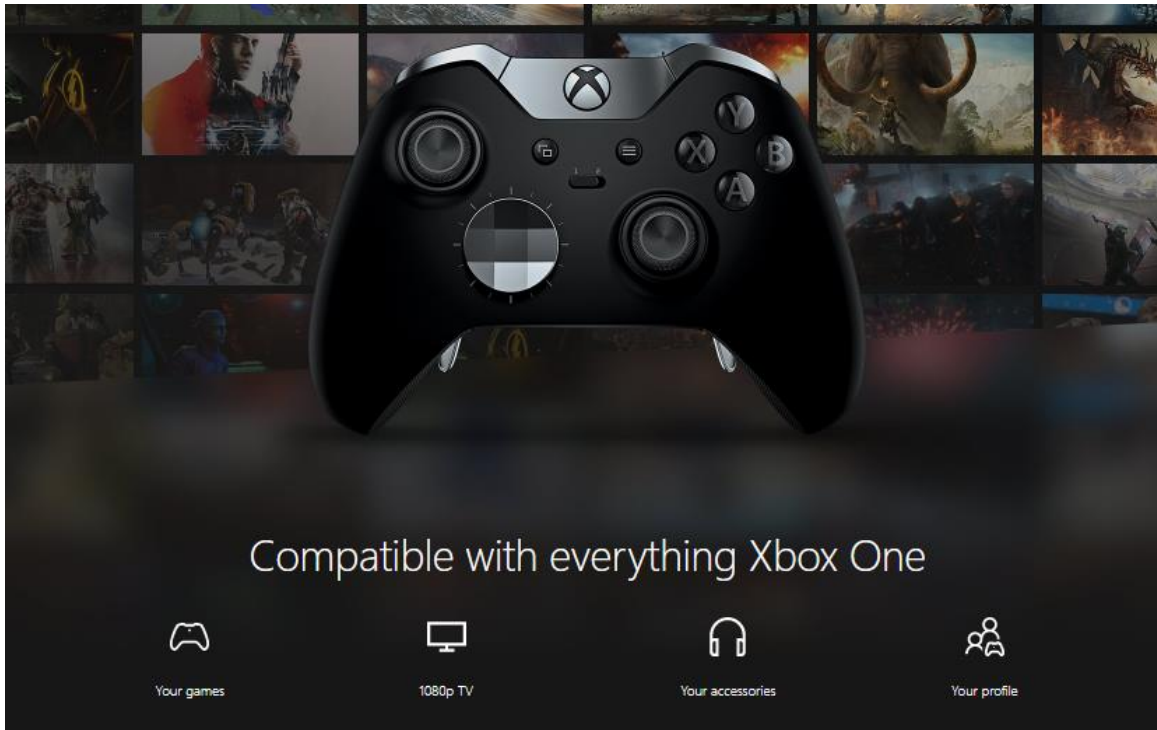∨ Connect the controller using a USB cable

Connect your controller using a micro-USB cable (included with all standard Xbox One wireless controllers and the Xbox One Play & Charge Kit). Standard alkaline batteries won't be used to power the controller functions while you're using your controller as a wired controller.

If you're using an Xbox Elite Wireless Controller Series 2 or Xbox Adaptive Controller, connect your controller using a USB-C cable (included with both controllers).

Depending on the type of controller you have, plug the micro-USB or USB-C cable into the power port on the back of the controller then plug the other end of the cable into your Xbox One.
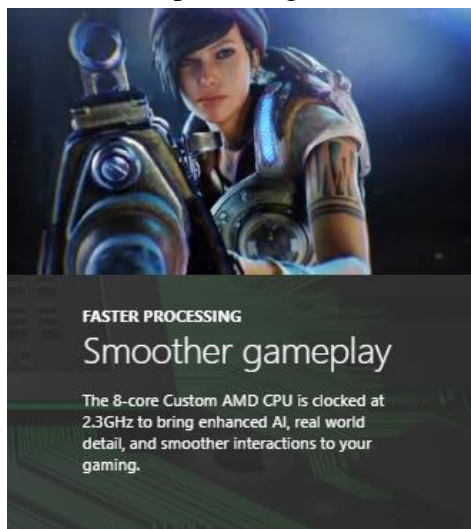
Note If you're having problems connecting your controller to your console, see Xbox One Wireless Controller Solution.

https://beta.support.xbox.com/help/hardware-network/controller/connect-a-wireless-controller

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

28.   The Accused Products include a Central Processing Unit (CPU) that can process

user input in the context of a game loaded using the optical drive to generate a game video output

transmitted to a display (on a TV, for example) using the HDMI out port.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

https://www.youtube.com/watch?v=KD2nhicxroQ

https://beta.support.xbox.com/help/hardware-network/controller/connect-a-wireless-controller

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See your old TV in a new light—games will look and play better on your 1080p TV than anything you've seen before. They will load faster, run smoother, and look crisper by super-sampling, anisotropic filtering, and dynamic resolution scaling.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

29.   The CPU in the Accused Products can save game progress to an external hard drive connected to the console via the USB 3.0 ports in the console, including upon a user request to save the game.

∨ Set up external storage

To use external storage with Xbox One games and apps, your hard drive must:

• Hold 128 GB or more

  Note This has been reduced from 256 GB.

• Connect via USB 3.0

When you first connect, Xbox will prompt you to format your device. You can use it for Xbox games and apps, or for personal media such as pictures, music, and video. (Xbox will treat devices that don't meet the above requirements as media storage.)

If your Xbox doesn't recognize your external drive, see Troubleshoot external storage detection on Xbox One.

  Note Xbox will recognize only two external drives at one time.

If you cancel formatting when you connect a storage device, you can set it up later:

1. Press the **Xbox** button ⊗ to open the guide and select **System** > **Settings** > **System** > **Storage**.
2. Select your device, and then select **Format for games & apps**.

https://beta.support.xbox.com/help/hardware-network/storage/manage-storage

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs

30.   The Accused Products have built-in memory to store software modules used by

the CPU to execute various processes.

https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs
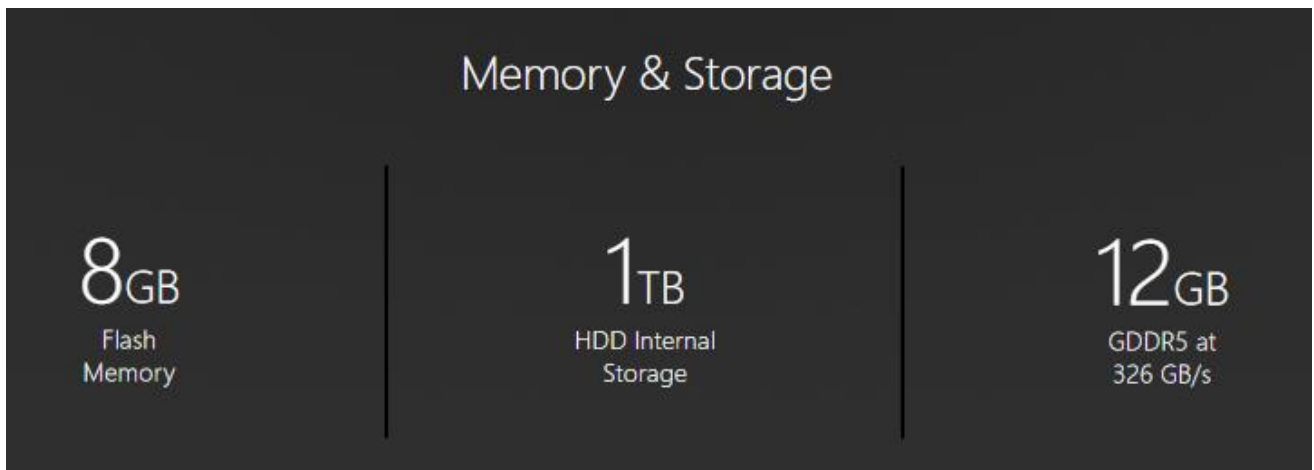
31.   When the Accused Products access a game stored on the external hard drive,

encoded game data along with a video player software module for the stored game is sent to the

console and stored in the console. The encoded game data is decoded with the help of the video

player software module and is displayed via the display interface.

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∨   Set up external storage

To use external storage with Xbox One games and apps, your hard drive must:

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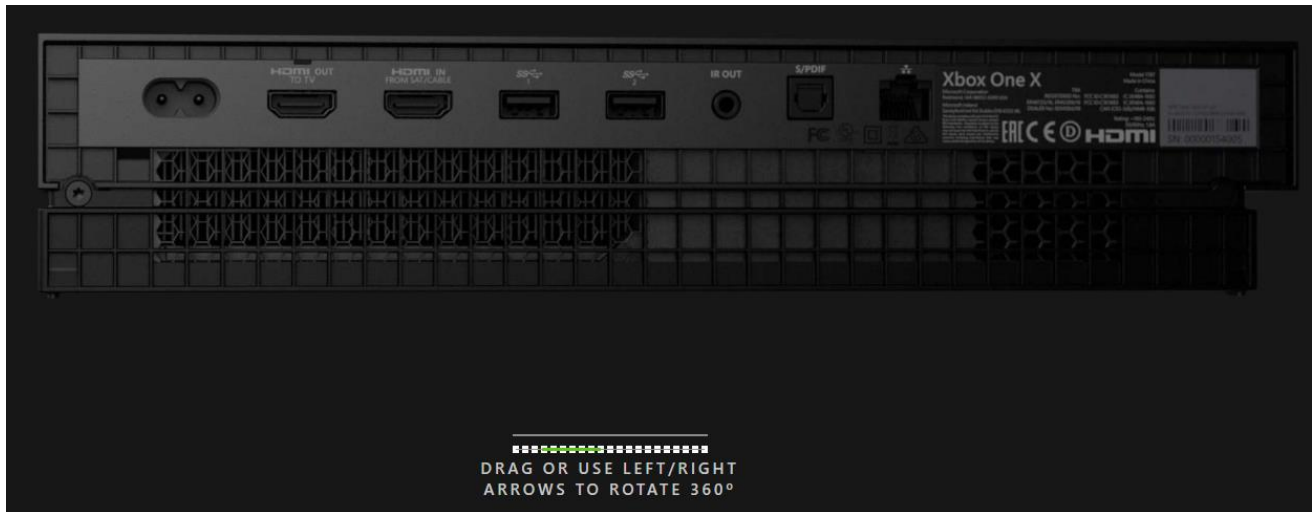> **Note** This has been reduced from 256 GB.

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> **Note** Xbox will recognize only two external drives at one time.

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https://beta.support.xbox.com/help/hardware-network/storage/manage-storage

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If you have more than one Xbox One console, or if you want to play games at a friend's house, you can store your saved games on Xbox Live servers in the cloud, and pick right back up where you left off.

Topics   Collapse all

> How do I sync my saved games to the cloud?

> Do I need an Xbox Live Gold subscription to use cloud storage?

∨ What's stored on my hard drive and in the cloud?

Your data is stored on both your hard drive and in the cloud. Xbox Live keeps your important data in sync so you don't lose anything when you use a friend or family member's console, or even when you switch to a new console.

Note

> You must have a regular connection to Xbox Live to keep your data in sync. Playing offline may cause your cloud data to become out of sync. Your data updates each time you connect to Xbox Live.

https://beta.support.xbox.com/help/games-apps/game-setup-and-play/cloud-game-saves-faq

32.   The Accused Products allow a user to resume a game from where the user has left off on the last save stored to the external hard drive. Based on user input, the CPU can transmit a request to the external hard drive for corresponding game history data which is retrieved and used to resume the play of the game from the saved position.

If you have more than one Xbox One console, or if you want to play games at a friend's house, you can store your saved games on Xbox Live servers in the cloud, and pick right back up where you left off.

Topics

Collapse all

> How do I sync my saved games to the cloud?

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https://beta.support.xbox.com/help/games-apps/game-setup-and-play/cloud-game-saves-faq

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https://www.youtube.com/watch?v=KIjrIRYlAeU&t=841s

33.   In view of preceding paragraphs, each and every element of at least claim 20 of the '988 Patent is found in the Accused Products.

34.   Microsoft has and continues to directly infringe at least one claim of the '988 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

35.   Microsoft has received notice and actual or constructive knowledge of the '988 Patent since at least the date of service of this Complaint.

36.   Since at least the date of service of this Complaint, through its actions, Microsoft has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '988 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- https://www.xbox.com/en-us/consoles/xbox-one-x
- https://www.xbox.com/en-IN/consoles/xbox-one-x#techSpecs
- https://beta.support.xbox.com/help/hardware-network/storage/manage-storage
- https://beta.support.xbox.com/help/hardware-network/controller/connect-a-wireless-controller
- https://beta.support.xbox.com/help/games-apps/game-setup-and-play/cloud-game-saves-faq
- https://www.xbox.com/en-US/consoles/all-consoles
- https://beta.support.xbox.com/help/games-apps/game-setup-and-play/cloud-game-saves-faq

37.   Since at least the date of service of this Complaint, through its actions, Microsoft has contributed to the infringement of the '988 Patent by having others sell, offer for sale, or use

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the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '988 Patent. The Accused Products are especially made or adapted for infringing the '988 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '988 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A)   Enter judgment that Microsoft infringes one or more claims of the '988 Patent literally and/or under the doctrine of equivalents;

(B)   Enter judgment that Microsoft has induced infringement and continues to induce infringement of one or more claims of the '988 Patent;

(C)   Enter judgment that Microsoft has contributed to and continues to contribute to the infringement of one or more claims of the '988 Patent;

(D)   Award Brazos damages, to be paid by Microsoft in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Microsoft of the '988 Patent through the date such judgment is entered in accordance with 35 U.S.C. §284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. §284;

(E)   Declare this case exceptional pursuant to 35 U.S.C. §285; and

(F)   Award Brazos its costs, disbursements, attorneys' fees, and such further and

additional relief as is deemed appropriate by this Court.

Dated: June 2, 2020   Respectfully submitted,

                                        /s/ James L. Etheridge
                                        James L. Etheridge
                                        Texas State Bar No. 24059147
                                        Ryan S. Loveless
                                        Texas State Bar No. 24036997
                                        Travis L. Richins
                                        Texas State Bar No. 24061296

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                                        COUNSEL FOR PLAINTIFF

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